

1 AN ACT

2 RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING
3 LIQUOR OR DRUGS; REQUIRING ALL OFFENDERS TO OBTAIN AN
4 IGNITION INTERLOCK LICENSE AND HAVE AN IGNITION INTERLOCK
5 DEVICE INSTALLED; PROVIDING FOR INCREASING PERIODS OF LICENSE
6 REVOCATION UPON CONVICTION FOR REPEAT OFFENDERS; INCREASING
7 THE PERIODS OF ADMINISTRATIVE REVOCATION; ALLOWING ASSISTANCE
8 TO JUVENILES FROM THE INTERLOCK DEVICE FUND; REVISING
9 PROCEDURES FOR COLLECTION OF FEES FOR THE INTERLOCK DEVICE
10 FUND; LIMITING ADMINISTRATIVE COSTS; REQUIRING MANDATORY
11 HOURS OF COMMUNITY SERVICE BY DWI OFFENDERS; ALLOWING
12 ELECTRONIC SUBMISSION OF STATEMENTS BY LAW ENFORCEMENT
13 OFFICERS UNDER THE IMPLIED CONSENT ACT; ESTABLISHING STANDARD
14 DWI ARREST REPORTS AND PROCEDURES.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 227, as amended) is amended to read:

19 "66-5-5. PERSONS NOT TO BE LICENSED.--The division
20 shall not issue a driver's license under the Motor Vehicle
21 Code to any person:

22 A. who is under the age of eighteen years, except
23 the division may, in its discretion, issue:

24 (1) an instruction permit to a person
25 fifteen years of age or over who is enrolled in and attending

1 or has completed a driver education course that includes a
2 DWI education and prevention component approved by the bureau
3 or offered by a public school;

4 (2) a provisional license to any person
5 fifteen years and six months of age or older:

6 (a) who has completed a driver
7 education course approved by the bureau or offered by a
8 public school that includes a DWI education and prevention
9 component and has had an instruction permit for at least six
10 months; and

11 (b) who has successfully completed a
12 practice driving component;

13 (3) a driver's license to any person sixteen
14 years and six months of age or older:

15 (a) who has had a provisional license
16 for the twelve-month period immediately preceding the date of
17 the application for the driver's license;

18 (b) who has complied with restrictions
19 on that license;

20 (c) who has not been convicted of a
21 traffic violation that was committed during the ninety days
22 prior to applying for a driver's license; and

23 (d) who has not been adjudicated for an
24 offense involving the use of alcohol or drugs during that
25 period and who has no pending adjudications alleging an

1 offense involving the use of alcohol or drugs at the time of
2 application; and

3 (4) to any person thirteen years of age or
4 older who passes an examination prescribed by the division, a
5 license restricted to the operation of a motorcycle,
6 provided:

7 (a) the motorcycle is not in excess of
8 one hundred cubic centimeters displacement;

9 (b) no holder of an initial license may
10 carry any other passenger while driving a motorcycle; and

11 (c) the director approves and certifies
12 motorcycles as not in excess of one hundred cubic centimeters
13 displacement and by rule provides for a method of
14 identification of such motorcycles by all law enforcement
15 officers;

16 B. whose license or driving privilege has been
17 suspended or denied, during the period of suspension or
18 denial, or to any person whose license has been revoked,
19 except as provided in Section 66-5-32 NMSA 1978 and the
20 Ignition Interlock Licensing Act;

21 C. who is an habitual user of narcotic drugs or
22 alcohol or an habitual user of any drug to a degree that
23 renders the person incapable of safely driving a motor
24 vehicle;

25 D. who is four or more times convicted of driving

1 a motor vehicle while under the influence of intoxicating
2 liquor or narcotic drug regardless of whether the convictions
3 are under the laws or ordinances of this state or any
4 municipality or county of this state or under the laws or
5 ordinances of any other state, the District of Columbia or
6 any governmental subdivision thereof, except as provided in
7 the Ignition Interlock Licensing Act. Five years from the
8 date of the fourth conviction and every five years
9 thereafter, the person may apply to any district court of
10 this state for restoration of the license, and the court,
11 upon good cause being shown, may order restoration of the
12 license applied for; provided that the person has not been
13 subsequently convicted of driving a motor vehicle while under
14 the influence of intoxicating liquor or drugs. Upon issuance
15 of the order of restoration, a certified copy shall
16 immediately be forwarded to the division, and if the person
17 is otherwise qualified for the license applied for, the four
18 previous convictions shall not prohibit issuance of the
19 license;

20 E. who has previously been afflicted with or who
21 is suffering from any mental disability or disease that would
22 render him unable to drive a motor vehicle with safety upon
23 the highways and who has not, at the time of application,
24 been restored to health;

25 F. who is required by the Motor Vehicle Code to

1 take an examination, unless the person has successfully
2 passed the examination;

3 G. who is required under the laws of this state to
4 deposit proof of financial responsibility and who has not
5 deposited the proof;

6 H. when the director has good cause to believe
7 that the operation of a motor vehicle on the highways by the
8 person would be inimical to public safety or welfare; or

9 I. as a motorcycle driver who is less than
10 eighteen years of age and who has not presented a certificate
11 or other evidence of having successfully completed a
12 motorcycle driver education program licensed or offered in
13 conformance with rules of the bureau."

14 Section 2. Section 66-5-29 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 251, as amended) is amended to read:

16 "66-5-29. MANDATORY REVOCATION OF LICENSE BY
17 DIVISION.--

18 A. The division shall immediately revoke the
19 instruction permit, driver's license or provisional license
20 of a driver upon receiving a record of the driver's
21 adjudication as a delinquent for or conviction of any of the
22 following offenses, whether the offense is under any state
23 law or local ordinance, when the conviction or adjudication
24 has become final:

25 (1) manslaughter or negligent homicide

1 resulting from the operation of a motor vehicle;

2 (2) any offense rendering a person a "first
3 offender" as defined in the Motor Vehicle Code;

4 (3) any offense rendering a person a
5 "subsequent offender" as defined in the Motor Vehicle Code;

6 (4) any felony in the commission of which a
7 motor vehicle is used;

8 (5) failure to stop and render aid as
9 required under the laws of this state in the event of a motor
10 vehicle accident resulting in the death or personal injury of
11 another;

12 (6) perjury or the making of a false
13 affidavit or statement under oath to the division under the
14 Motor Vehicle Code or under any other law relating to the
15 ownership or operation of motor vehicles; or

16 (7) conviction or forfeiture of bail not
17 vacated upon three charges of reckless driving committed
18 within a period of twelve months.

19 B. Except as provided in the Ignition Interlock
20 Licensing Act and in Subsection C, D or E of this section, a
21 person whose license has been revoked under this section
22 shall not be entitled to apply for or receive a new license
23 until one year from the date that the conviction is final and
24 all rights to an appeal have been exhausted.

25 C. A person who upon adjudication as a delinquent

1 for driving while under the influence of intoxicating liquor
2 or drugs or conviction pursuant to Section 66-8-102 NMSA 1978
3 is subject to license revocation under this section for an
4 offense pursuant to which the person was also subject to
5 license revocation pursuant to Section 66-8-111 NMSA 1978
6 shall have his license revoked for that offense for a
7 combined period of time equal to:

8 (1) one year for a first offender; or

9 (2) for a subsequent offender:

10 (a) two years for a second conviction;

11 (b) three years for a third conviction;

12 or

13 (c) the remainder of the offender's

14 life for a fourth or subsequent conviction, subject to a
15 five-year review, as provided in Sections 66-5-5 and 66-8-102
16 NMSA 1978.

17 D. Upon receipt of an order from a court pursuant
18 to Section 32A-2-19 NMSA 1978 or Subsection G of Section
19 32A-2-22 NMSA 1978, the division shall revoke the driver's
20 license or driving privileges for a period of time in
21 accordance with these provisions.

22 E. Upon receipt from a district court of a record
23 of conviction for the offense of shooting at or from a motor
24 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978
25 or of a conviction for a conspiracy or an attempt to commit

1 that offense, the division shall revoke the driver's license
2 or driving privileges of the convicted person. A person
3 whose license or privilege has been revoked pursuant to the
4 provisions of this subsection shall not be entitled to apply
5 for or receive any new license or privilege until one year
6 from the date that the conviction is final and all rights to
7 an appeal have been exhausted."

8 Section 3. Section 66-5-32 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 254, as amended) is amended to read:

10 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION.--

11 A. The division shall not suspend a driver's
12 license or privilege to drive a motor vehicle on the public
13 highways for a period of more than one year except as
14 permitted under Subsection C of this section and Sections
15 66-5-5 and 66-5-39 NMSA 1978.

16 B. Except as provided in the Ignition Interlock
17 Licensing Act, a person whose license or privilege to drive a
18 motor vehicle on the public highways has been revoked shall
19 not be entitled to have the license or privilege renewed or
20 restored unless the revocation was for a cause that has been
21 removed, except that after the expiration of the periods
22 specified in Subsections B and C of Section 66-5-29 NMSA 1978
23 from the date on which the revoked license was surrendered to
24 and received by the division, the person may make application
25 for a new license as provided by law.

1 C. The suspension period for failure to appear or
2 failure to remit the penalty assessment shall, at the
3 discretion of the director, be extended indefinitely subject
4 to the provisions of Subsection B of Section 66-5-30 NMSA
5 1978."

6 Section 4. Section 66-5-35 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 257, as amended) is amended to read:

8 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
9 REVOCATION--HEARING--REVIEW.--

10 A. Upon suspension or revocation of a person's
11 driver's license following conviction or adjudication as a
12 delinquent under any law, ordinance or rule relating to motor
13 vehicles, a person may apply to the department for a license
14 or permit to drive, limited to use allowing the person to
15 engage in gainful employment, to attend school or to attend a
16 court-ordered treatment program, except that the person shall
17 not be eligible to apply:

18 (1) for a limited commercial driver's
19 license or an ignition interlock license in lieu of a revoked
20 or suspended commercial driver's license;

21 (2) for a limited license when the person's
22 driver's license was revoked pursuant to the provisions of
23 the Implied Consent Act, except as provided in the Ignition
24 Interlock Licensing Act;

25 (3) for a limited license when the person's

1 driver's license was revoked pursuant to the provisions of
2 Section 66-8-102 NMSA 1978, except as provided in the
3 Ignition Interlock Licensing Act;

4 (4) for a limited license when the person's
5 driver's license is denied pursuant to the provisions of
6 Subsection D of Section 66-5-5 NMSA 1978, except as provided
7 in the Ignition Interlock Licensing Act; or

8 (5) for a limited license when the person's
9 driver's license was revoked pursuant to a conviction for
10 committing homicide by vehicle or great bodily injury by
11 vehicle, as provided in Section 66-8-101 NMSA 1978.

12 B. Upon receipt of a fully completed application
13 that complies with statutes and rules for a limited license
14 or an ignition interlock license and payment of the fee
15 specified in this subsection, the department shall issue a
16 limited license, ignition interlock license or permit to the
17 applicant showing the limitations specified in the approved
18 application. For each limited license, ignition interlock
19 license or permit to drive, the applicant shall pay to the
20 department a fee of forty-five dollars (\$45.00), which shall
21 be transferred to the department of transportation. All
22 money collected under this subsection shall be used for DWI
23 prevention and education programs for elementary and
24 secondary school students. The department of transportation
25 shall coordinate with the department of health to ensure that

1 there is no program duplication. The limited license or
2 permit to drive may be suspended as provided in Section
3 66-5-30 NMSA 1978.

4 C. The department, within twenty days of denial of
5 an application for a limited driver's license or permit
6 pursuant to this section, shall afford the applicant a
7 hearing in the county in which the applicant resides, unless
8 the department and the licensee agree that the hearing may be
9 held in some other county. The department may extend the
10 twenty-day period, provided that the extension is in writing
11 and made no later than fifteen days after receipt of an
12 application. Upon hearing, the hearing officer designated by
13 the department may administer oaths and may issue subpoenas
14 for the attendance of witnesses and the production of
15 relevant books and papers. The hearing officer shall make
16 specific findings as to whether the applicant has shown proof
17 of financial responsibility for the future and enrollment in
18 an approved DWI school and an approved alcohol screening
19 program and meets established uniform criteria for limited
20 driving privileges adopted by rule of the department. The
21 hearing officer shall enter an order either approving or
22 denying the applicant's request for a limited license or
23 permit to drive. If any of the specific findings set forth
24 in this subsection are not found by the hearing officer, the
25 applicant's request for a limited license or permit shall not

1 be approved.

2 D. A person adversely affected by an order of the
3 hearing officer may seek review within thirty days in the
4 district court in the county in which the person resides. On
5 review, it is for the court to determine only whether the
6 applicant met the requirements in this section for issuance
7 of a limited license or permit to drive."

8 Section 5. Section 66-8-102 NMSA 1978 (being Laws 1953,
9 Chapter 139, Section 54, as amended) is amended to read:

10 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING
11 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE
12 OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

13 A. It is unlawful for a person who is under the
14 influence of intoxicating liquor to drive a vehicle within
15 this state.

16 B. It is unlawful for a person who is under the
17 influence of any drug to a degree that renders him incapable
18 of safely driving a vehicle to drive a vehicle within this
19 state.

20 C. It is unlawful for:

21 (1) a person who has an alcohol
22 concentration of eight one hundredths or more in his blood or
23 breath to drive a vehicle within this state; or

24 (2) a person who has an alcohol
25 concentration of four one hundredths or more in his blood or

1 breath to drive a commercial motor vehicle within this state.

2 D. Aggravated driving while under the influence of
3 intoxicating liquor or drugs consists of a person who:

4 (1) has an alcohol concentration of sixteen
5 one hundredths or more in his blood or breath while driving a
6 vehicle within this state;

7 (2) has caused bodily injury to a human
8 being as a result of the unlawful operation of a motor
9 vehicle while driving under the influence of intoxicating
10 liquor or drugs; or

11 (3) refused to submit to chemical testing,
12 as provided for in the Implied Consent Act, and in the
13 judgment of the court, based upon evidence of intoxication
14 presented to the court, was under the influence of
15 intoxicating liquor or drugs.

16 E. A person under first conviction pursuant to
17 this section shall be punished, notwithstanding the
18 provisions of Section 31-18-13 NMSA 1978, by imprisonment for
19 not more than ninety days or by a fine of not more than five
20 hundred dollars (\$500), or both; provided that if the
21 sentence is suspended in whole or in part or deferred, the
22 period of probation may extend beyond ninety days but shall
23 not exceed one year. Upon a first conviction pursuant to
24 this section, an offender shall be sentenced to not less than
25 twenty-four hours and not more than forty-eight hours of

1 community service. In addition, the offender may be required
2 to pay a fine of three hundred dollars (\$300). The offender
3 shall be ordered by the court to participate in and complete
4 a screening program described in Subsection K of this section
5 and to attend a driver rehabilitation program for alcohol or
6 drugs, also known as a "DWI school", approved by the bureau
7 and also may be required to participate in other
8 rehabilitative services as the court shall determine to be
9 necessary. In addition to those penalties, when an offender
10 commits aggravated driving while under the influence of
11 intoxicating liquor or drugs, the offender shall be sentenced
12 to not less than forty-eight consecutive hours in jail. If
13 an offender fails to complete, within a time specified by the
14 court, any community service, screening program, treatment
15 program or DWI school ordered by the court or fails to comply
16 with any other condition of probation, the offender shall be
17 sentenced to not less than an additional forty-eight
18 consecutive hours in jail. Any jail sentence imposed
19 pursuant to this subsection for failure to complete, within a
20 time specified by the court, any community service, screening
21 program, treatment program or DWI school ordered by the court
22 or for aggravated driving while under the influence of
23 intoxicating liquor or drugs shall not be suspended, deferred
24 or taken under advisement. On a first conviction pursuant to
25 this section, any time spent in jail for the offense prior to

1 the conviction for that offense shall be credited to any term
2 of imprisonment fixed by the court. A deferred sentence
3 pursuant to this subsection shall be considered a first
4 conviction for the purpose of determining subsequent
5 convictions.

6 F. A second or third conviction pursuant to this
7 section shall be punished, notwithstanding the provisions of
8 Section 31-18-13 NMSA 1978, by imprisonment for not more than
9 three hundred sixty-four days or by a fine of not more than
10 one thousand dollars (\$1,000), or both; provided that if the
11 sentence is suspended in whole or in part, the period of
12 probation may extend beyond one year but shall not exceed
13 five years. Notwithstanding any provision of law to the
14 contrary for suspension or deferment of execution of a
15 sentence:

16 (1) upon a second conviction, an offender
17 shall be sentenced to a jail term of not less than ninety-six
18 consecutive hours, forty-eight hours of community service and
19 a fine of five hundred dollars (\$500). In addition to those
20 penalties, when an offender commits aggravated driving while
21 under the influence of intoxicating liquor or drugs, the
22 offender shall be sentenced to a jail term of not less than
23 ninety-six consecutive hours. If an offender fails to
24 complete, within a time specified by the court, any community
25 service, screening program or treatment program ordered by

1 the court, the offender shall be sentenced to not less than
2 an additional seven consecutive days in jail. A penalty
3 imposed pursuant to this paragraph shall not be suspended or
4 deferred or taken under advisement; and

5 (2) upon a third conviction, an offender
6 shall be sentenced to a jail term of not less than thirty
7 consecutive days, ninety-six hours of community service and a
8 fine of seven hundred fifty dollars (\$750). In addition to
9 those penalties, when an offender commits aggravated driving
10 while under the influence of intoxicating liquor or drugs,
11 the offender shall be sentenced to a jail term of not less
12 than sixty consecutive days. If an offender fails to
13 complete, within a time specified by the court, any community
14 service, screening program or treatment program ordered by
15 the court, the offender shall be sentenced to not less than
16 an additional sixty consecutive days in jail. A penalty
17 imposed pursuant to this paragraph shall not be suspended or
18 deferred or taken under advisement.

19 G. Upon a fourth conviction pursuant to this
20 section, an offender is guilty of a fourth degree felony and,
21 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
22 shall be sentenced to a term of imprisonment of eighteen
23 months, six months of which shall not be suspended, deferred
24 or taken under advisement.

25 H. Upon a fifth conviction pursuant to this

1 section, an offender is guilty of a fourth degree felony and,
2 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
3 shall be sentenced to a term of imprisonment of two years,
4 one year of which shall not be suspended, deferred or taken
5 under advisement.

6 I. Upon a sixth conviction pursuant to this
7 section, an offender is guilty of a third degree felony and,
8 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
9 shall be sentenced to a term of imprisonment of thirty
10 months, eighteen months of which shall not be suspended,
11 deferred or taken under advisement.

12 J. Upon a seventh or subsequent conviction
13 pursuant to this section, an offender is guilty of a third
14 degree felony and, notwithstanding the provisions of Section
15 31-18-15 NMSA 1978, shall be sentenced to a term of
16 imprisonment of three years, two years of which shall not be
17 suspended, deferred or taken under advisement.

18 K. Upon any conviction pursuant to this section,
19 an offender shall be required to participate in and complete,
20 within a time specified by the court, an alcohol or drug
21 abuse screening program approved by the department of finance
22 and administration and, if necessary, a treatment program
23 approved by the court. The requirement imposed pursuant to
24 this subsection shall not be suspended, deferred or taken
25 under advisement.

1 L. Upon a second or third conviction pursuant to
2 this section, an offender shall be required to participate in
3 and complete, within a time specified by the court:

4 (1) not less than a twenty-eight-day
5 inpatient, residential or in-custody substance abuse
6 treatment program approved by the court;

7 (2) not less than a ninety-day outpatient
8 treatment program approved by the court;

9 (3) a drug court program approved by the
10 court; or

11 (4) any other substance abuse treatment
12 program approved by the court.

13 The requirement imposed pursuant to this subsection
14 shall not be suspended, deferred or taken under advisement.

15 M. Upon a felony conviction pursuant to this
16 section, the corrections department shall provide substance
17 abuse counseling and treatment to the offender in its
18 custody. While the offender is on probation or parole under
19 its supervision, the corrections department shall also
20 provide substance abuse counseling and treatment to the
21 offender or shall require the offender to obtain substance
22 abuse counseling and treatment.

23 N. Upon a conviction pursuant to this section, an
24 offender shall be required to obtain an ignition interlock
25 license and have an ignition interlock device installed and

1 operating on all motor vehicles driven by the offender,
2 pursuant to rules adopted by the bureau. Unless determined
3 by the sentencing court to be indigent, the offender shall
4 pay all costs associated with having an ignition interlock
5 device installed on the appropriate motor vehicles. The
6 offender shall operate only those vehicles equipped with
7 ignition interlock devices for:

8 (1) a period of one year, for a first
9 offender;

10 (2) a period of two years, for a second
11 conviction pursuant to this section;

12 (3) a period of three years, for a third
13 conviction pursuant to this section; or

14 (4) the remainder of the offender's life,
15 for a fourth or subsequent conviction pursuant to this
16 section.

17 0. Five years from the date of conviction and
18 every five years thereafter, a fourth or subsequent offender
19 may apply to a district court for removal of the ignition
20 interlock device requirement provided in this section and for
21 restoration of a driver's license. A district court may, for
22 good cause shown, remove the ignition interlock device
23 requirement and order restoration of the license; provided
24 that the offender has not been subsequently convicted of
25 driving a motor vehicle while under the influence of

1 intoxicating liquor or drugs. Good cause may include an
2 alcohol screening and proof from the interlock vendor that
3 the person has not had violations of the interlock device.

4 P. In the case of a first, second or third offense
5 under this section, the magistrate court has concurrent
6 jurisdiction with district courts to try the offender.

7 Q. A conviction pursuant to a municipal or county
8 ordinance in New Mexico or a law of any other jurisdiction,
9 territory or possession of the United States or of a tribe,
10 when that ordinance or law is equivalent to New Mexico law
11 for driving while under the influence of intoxicating liquor
12 or drugs, and prescribes penalties for driving while under
13 the influence of intoxicating liquor or drugs, shall be
14 deemed to be a conviction pursuant to this section for
15 purposes of determining whether a conviction is a second or
16 subsequent conviction.

17 R. In addition to any other fine or fee that may
18 be imposed pursuant to the conviction or other disposition of
19 the offense under this section, the court may order the
20 offender to pay the costs of any court-ordered screening and
21 treatment programs.

22 S. With respect to this section and
23 notwithstanding any provision of law to the contrary, if an
24 offender's sentence was suspended or deferred in whole or in
25 part and the offender violates any condition of probation,

1 the court may impose any sentence that the court could have
2 originally imposed and credit shall not be given for time
3 served by the offender on probation.

4 T. As used in this section:

5 (1) "bodily injury" means an injury to a
6 person that is not likely to cause death or great bodily harm
7 to the person, but does cause painful temporary disfigurement
8 or temporary loss or impairment of the functions of any
9 member or organ of the person's body;

10 (2) "commercial motor vehicle" means a motor
11 vehicle or combination of motor vehicles used in commerce to
12 transport passengers or property if the motor vehicle:

13 (a) has a gross combination weight
14 rating of more than twenty-six thousand pounds inclusive of a
15 towed unit with a gross vehicle weight rating of more than
16 ten thousand pounds;

17 (b) has a gross vehicle weight rating
18 of more than twenty-six thousand pounds;

19 (c) is designed to transport sixteen or
20 more passengers, including the driver; or

21 (d) is of any size and is used in the
22 transportation of hazardous materials, which requires the
23 motor vehicle to be placarded under applicable law; and

24 (3) "conviction" means an adjudication of
25 guilt and does not include imposition of a sentence."

1 Section 6. Section 66-8-102.3 NMSA 1978 (being Laws
2 2002, Chapter 82, Section 2, as amended) is amended to read:

3 "66-8-102.3. IMPOSING A FEE--CREATING A FUND.--

4 A. A fee is imposed on a person convicted of
5 driving while under the influence of intoxicating liquor or
6 drugs pursuant to Section 66-8-102 NMSA 1978 or adjudicated
7 as a delinquent on the basis of Subparagraph (a) of Paragraph
8 (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a person
9 whose driver's license is revoked pursuant to the provisions
10 of the Implied Consent Act, in an amount determined by rule
11 of the department of finance and administration not to exceed
12 one hundred dollars (\$100) but not less than fifty dollars
13 (\$50.00) for each year the person is required to operate only
14 vehicles equipped with an ignition interlock device in order
15 to ensure the solvency of the interlock device fund. The fee
16 imposed by this subsection shall be collected by the vendor
17 who provides an ignition interlock device to the person and
18 the vendor shall remit the fees collected on a monthly basis
19 to the local government division of the department of finance
20 and administration.

21 B. The "interlock device fund" is created in the
22 state treasury. The fee imposed pursuant to Subsection A of
23 this section shall be distributed to the fund by the local
24 government division of the department of finance and
25 administration.

1 C. All money in the interlock device fund is
2 appropriated to the local government division of the
3 department of finance and administration to cover the costs
4 of installing and removing and one-half of the cost of
5 leasing ignition interlock devices for indigent people who
6 are required, pursuant to convictions under Section 66-8-102
7 NMSA 1978 or adjudications on the basis of Subparagraph (a)
8 of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978
9 or driver's license revocations pursuant to the provisions of
10 the Implied Consent Act, to install those devices in their
11 vehicles. Indigency shall be determined by the sentencing
12 court.

13 D. Any balance remaining in the interlock device
14 fund shall not revert to the general fund at the end of any
15 fiscal year.

16 E. The interlock device fund shall be administered
17 by the local government division of the department of finance
18 and administration. No more than five percent of the money
19 in the interlock device fund in any fiscal year shall be
20 expended by the local government division of the department
21 of finance and administration for the purpose of
22 administering the fund."

23 Section 7. Section 66-8-111 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 519, as amended by Laws 2003, Chapter 51,
25 Section 13 and by Laws 2003, Chapter 90, Section 6) is

1 amended to read:

2 "66-8-111. REFUSAL TO SUBMIT TO CHEMICAL TESTS--
3 TESTING--GROUNDS FOR REVOCATION OF LICENSE OR PRIVILEGE TO
4 DRIVE.--

5 A. If a person under arrest for violation of an
6 offense enumerated in the Motor Vehicle Code refuses upon
7 request of a law enforcement officer to submit to chemical
8 tests designated by the law enforcement agency as provided in
9 Section 66-8-107 NMSA 1978, none shall be administered except
10 when a municipal judge, magistrate or district judge issues a
11 search warrant authorizing chemical tests as provided in
12 Section 66-8-107 NMSA 1978 upon finding in a law enforcement
13 officer's written affidavit that there is probable cause to
14 believe that the person has driven a motor vehicle while
15 under the influence of alcohol or a controlled substance,
16 thereby causing the death or great bodily injury of another
17 person, or there is probable cause to believe that the person
18 has committed a felony while under the influence of alcohol
19 or a controlled substance and that chemical tests as provided
20 in Section 66-8-107 NMSA 1978 will produce material evidence
21 in a felony prosecution.

22 B. The department, upon receipt of a statement
23 signed under penalty of perjury from a law enforcement
24 officer stating the officer's reasonable grounds to believe
25 the arrested person had been driving a motor vehicle within

1 this state while under the influence of intoxicating liquor
2 or drugs and that, upon request, the person refused to submit
3 to a chemical test after being advised that failure to submit
4 could result in revocation of the person's privilege to
5 drive, shall revoke the person's New Mexico driver's license
6 or any nonresident operating privilege for a period of one
7 year or until all conditions for license reinstatement are
8 met, whichever is later.

9 C. The department, upon receipt of a statement
10 signed under penalty of perjury from a law enforcement
11 officer stating the officer's reasonable grounds to believe
12 the arrested person had been driving a motor vehicle within
13 this state while under the influence of intoxicating liquor
14 and that the person submitted to chemical testing pursuant to
15 Section 66-8-107 NMSA 1978 and the test results indicated an
16 alcohol concentration in the person's blood or breath of
17 eight one hundredths or more if the person is twenty-one
18 years of age or older, four one hundredths or more if the
19 person is driving a commercial motor vehicle or two one
20 hundredths or more if the person is less than twenty-one
21 years of age, shall revoke the person's license or permit to
22 drive or his nonresident operating privilege for a period of:

23 (1) six months or until all conditions for
24 license reinstatement are met, whichever is later, if the
25 person is twenty-one years of age or older;

1 (2) one year or until all conditions for
2 license reinstatement are met, whichever is later, if the
3 person was less than twenty-one years of age at the time of
4 the arrest, notwithstanding any provision of the Children's
5 Code; or

6 (3) one year or until all conditions for
7 license reinstatement are met, whichever is later, if the
8 person has previously had his license revoked pursuant to the
9 provisions of this section, notwithstanding the provisions of
10 Paragraph (1) of this subsection.

11 D. The determination of alcohol concentration
12 shall be based on the grams of alcohol in one hundred
13 milliliters of blood or the grams of alcohol in two hundred
14 ten liters of breath.

15 E. If the person subject to the revocation
16 provisions of this section is a resident or will become a
17 resident within one year and is without a license to operate
18 a motor vehicle in this state, the department shall deny the
19 issuance of a license to him for the appropriate period of
20 time as provided in Subsections B and C of this section.

21 F. A statement signed by a law enforcement
22 officer, pursuant to the provisions of Subsection B or C of
23 this section, shall be sworn to by the officer or shall
24 contain a declaration substantially to the effect: "I hereby
25 declare under penalty of perjury that the information given

1 in this statement is true and correct to the best of my
2 knowledge." The statement may be signed and submitted
3 electronically in a manner and form approved by the
4 department. A law enforcement officer who signs a statement,
5 knowing that the statement is untrue in any material issue or
6 matter, is guilty of perjury as provided in Section 66-5-38
7 NMSA 1978."

8 Section 8. UNIFORM POLICE REPORTS AND PROCEDURES FOR
9 DWI ARRESTS.--

10 A. The department of public safety, in
11 collaboration with the motor vehicle division of the taxation
12 and revenue department and the traffic safety bureau of the
13 department of transportation, shall develop and periodically
14 review and update standard arrest reports and procedures to
15 be used by law enforcement officers when making an arrest for
16 a violation of the provisions of Section 66-8-102 NMSA 1978
17 or similar municipal or county ordinances.

18 B. A law enforcement officer making an arrest for
19 a violation of the provisions of Section 66-8-102 NMSA 1978 or
20 of similar municipal or county ordinances shall use the
21 standard arrest reports and procedures developed and approved
22 by the department of public safety in accordance with the
23 provisions of Subsection A of this section. _____